

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	
	:	
v.	:	1:18CR283-1
	:	
DAQUAN MARQUEL GARNER	:	

FACTUAL BASIS FOR A GUILTY PLEA

NOW COMES the United States of America, by and through Matthew G.T. Martin, United States Attorney for the Middle District of North Carolina, and states that the factual basis for a guilty plea is as follows:

On January 25, 2018, Greensboro Police Department (GPD) officers were in the Bellevue/Wiley Street area investigating a shots-fired call. Officer Poole initially spoke with a witness on Bellevue Street. The witness, who wished to remain anonymous, told Officer Poole that she heard three gunshots. Shortly thereafter, a black man wearing an all navy blue sweat suit ran past her house toward Martin Luther King (MLK) Drive. Another witness in the area told Officer Poole the same story. Officer Poole began searching for a suspect who matched the description given by the two witnesses. A few minutes later, while driving down MLK Drive, Officer Poole noticed an individual wearing a navy blue, "NC A&T" sweat suit walking along MLK Drive. When the suspect spotted Officer Poole's fully marked police car, he crossed the street into a

parking lot into the area of 1002 MLK Drive. Officer Poole attempted to cut off the suspect with his police car, but was unsuccessful. At that point, the suspect in the NC A&T sweat suit fled west toward a wood line. When Officer Poole stopped momentarily and attempted to get out of his police car, the suspect kept running. As he did so, Officer Poole saw the suspect duck, and at the same time, Officer Poole heard a gunshot. Officer Poole retreated to his police car and called in another shots-fired call over his police radio.

Officer Poole reversed out of the parking lot and began following the suspect as he crossed through several streets fleeing west. GPD Officers Holbrook and Hatch were already in the area investigating the initial shots-fired call. When Officer's Poole's shots-fired call came out, Officer Hatch saw the suspect continuing to flee down Wiley Street into an unpaved "cut," known locally as "jump street," that divides Wiley Street between Bellevue Street and Vance Street. Officer Holbrook and Officer Kivette intercepted the suspect on the other side of "jump street." While running toward the officers, the defendant, Daquan Marquel Garner, complied with the officers' commands to stop running and lay down on the ground. At the time of his arrest, Garner was wearing a navy blue "NC A&T" hooded sweatshirt and navy blue "NC A&T" sweatpants.

Officer Poole arrived at the scene of Garner's arrest. Officer Poole asked, "Why did you shoot at me?" Garner replied, "I didn't shoot at you man . . . I was with twelve of my boys . . . shoot at a cop? Man, c'mon." Following his arrest, Garner kept asking the officers to find his cell phone, which he described as a Samsung mobile phone with a dark blue phone cover. Officer Poole contacted police dispatch for a K-9 unit to locate evidence along Garner's flight path. During the search, Officer Diaz's K-9 partner Brando located a black Smith & Wesson, model M&P Shield, 9mm caliber pistol in the backyard of 911 Caldwell Street—a location approximately 50 feet from where Officer Poole estimated he first encountered Garner. In the area of 906 Caldwell, where officers could see fresh footprints in the grass, Officer Holbrook found a bag containing 3.6g of suspected crack cocaine. There were 22 individual baggies of suspected crack cocaine inside one larger plastic bag. Officer Holbrook followed another set of fresh footprints to the backyard of 908 Caldwell, where he found Garner's Samsung cell phone.

Following his arrest, Garner provided two post-*Miranda* statements. In the first statement, Garner explained to GPD Detective Palmentari that he did not shoot at Officer Poole. Rather, Garner stated that "the gun" discharged when he tripped and fell along the wood line, while trying to run away from Officer Poole. ATF TFO Clay Coward and ATF SA Jason Zeigler conducted a

second post-*Miranda* interview later the same day. During the second interview, Garner admitted that the first shots-fired call was a result of Garner discharging his gun “in the air” to frighten an individual that Garner believed had robbed him and shot up his grandmother’s house a year or more prior to January 25, 2017. In both interviews, Garner told police that he no longer sold drugs and repeatedly denied that he possessed or discarded the suspected crack cocaine found in the same general flight path as the Smith & Wesson 9mm and his cell phone.

Prior to January 2018, Garner was previously convicted of Felony Sell/Deliver Cocaine in Guilford County Superior Court on March 22, 2011. As a North Carolina Class G felony, he could have received a sentence that included a term of imprisonment exceeding one year. Nexus examination of the Smith & Wesson 9mm handgun revealed that it was manufactured in Connecticut. Therefore, the Smith & Wesson 9mm affected interstate commerce before Garner possessed it on January 25, 2018.

This, the 28th day of September, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following: Tiffany T. Jefferson, Esq., and that a copy of the same was emailed to the U. S. Probation Office at Probationecf@ncmp.uscourts.gov.

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